



University of Hawaii at Manoa

Environmental Center
Crawford 317 • 2550 Campus Road
Honolulu, Hawaii 96822
Telephone (808) 948-7361

Office of the Director

RL:0277

HB 1978-78 AND HB 2879-78

RELATING TO HISTORIC SITES AND THEIR PRESERVATION

Statement for the
House Committee on Water, Land Use Development and Hawaiian Homes
Public Hearing 2 March 1978

by
Donald Bell, Business Administration
Doak C. Cox, Environmental Center
Rhoda Hackler, History
Pauline King Joerger, History
Donald D. Johnson, History
David Tuggle, Anthropology

Because both HB 1978 and HB 2879 relate to historic sites and their preservation, we combine our comments on these bills in a single statement. Our statement does not reflect an institutional position either of the University or of the Review Board for the Register of Historic Properties of which Tuggle is a member.

HB 1978

HB 1978 proposes amendments of three sections of HRS 6E pertaining to historic preservation and the addition of a new section to the Chapter. The intent of these amendments is to prevent any construction within a certain distance of a historic site. There are several problems with these amendments as now worded:

1) As a historic site is defined in HRS 6E-2, it is merely a site "that is significant in the history, architecture, archaeology, or culture of the State, its communities, or the nation." Significance is a matter of judgment, yet there is no indication who has the power to judge what is significant in the context of the bill. It would be better to define historic sites as those on the official registers of such sites.

2) The boundaries of historic sites are often not defined except with reference to land parcels. The actual site of historic or archaeological importance may be much smaller than the parcel on which it is located, and it may or may not be near the parcel boundary. The protection provided may, therefore, be much in excess of what is justified.

3) The distance of 30 feet to which it is proposed to prohibit construction may be excessive in a few cases, e.g. the construction of a small maintenance building, and inadequate in other cases, e.g. the construction of a high rise. There should be some relation between the size of buildings and the distance to which the construction prohibition applies.

4) The bill would prohibit the construction of a building intended to preserve the historic site, for example, a shelter built over it. This is surely not intended.

5) Certain other kinds of construction than buildings would be detrimental in close proximity to a historic site, for example, a major highway.

Instead of completely prohibiting the construction of buildings within a set distance of historic sites, it would be preferable to require review and approval by some authority of all construction proposed within a larger set distance. Alternatively, the Environmental Impact Statement Act, which now calls for environmental assessment for any actions within historic sites, could be amended to call for EIS's within a certain distance from a historic site as well, and HRS 6E-2 could be amended to prohibit agencies from undertaking or approving construction within that distance if the construction would significantly affect the historic site.

HB 1978 also proposes an amendment to HRS 142 which would allow the destruction of any cattle, horses, sheep, or goats straying on historic sites. We do not know how serious the effects of encroachment of such animals may be. Hence, we do not wish to comment on this amendment.

HB 2879

HB 2879 would amend certain sections of HRS Chapters 6E and 171 pertaining to historic preservation. Our comments relate solely to Sections 2 and 3 of the bill.

Section 2 would amend HRS 6E-7 to allow the State to issue permits and leases of historic properties for the purposes of allowing public access to such properties subject to appropriate controls. This amendment would provide the State with greater freedom to make suitable arrangements for the maintenance and utilization of such sites as Iolani Palace, and is desirable on this account.

Section 3 would require that the Board of Land and Natural Resources approve each nomination for registry of a property as a historic property before it is submitted to the Review Board for the Hawaii Register of Historic Places. If the provision were implemented, the Board of Land and Natural Resources would not be provided with any historical appraisal of the technically qualified Review Board and, indeed would be able to prevent a nomination even reaching the Review Board. Approval by the Board of Land and Natural Resources is not now required for registry of a historic site. If the Board's approval were required, it should follow the consideration of the nomination by the Review Board.

The proposed requirement for the approval by the Board of Land and Natural Resources appears to stem from a misapprehension as to the implications of registration of a historic place. It does not imply automatic acquisition by the State and, hence, a requirement of funds for acquisition. It does imply that alterations of the site, whether it is publicly or privately owned, will be reviewed by the Department of Land and Natural Resources, and that the State will have the option of acquiring the site if it is privately owned and if the alterations would reduce its historic value.

The registry of historic sites should proceed on the basis of their historic importance alone. Decisions as to the management of the site should consider not only the historic importance but the overall benefits and detriments of possible management alternatives. Management questions should not enter into the question of the appropriateness of registration.